IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8078 of 1997

For Approval and Signature:
HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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HIMATLAL D RATHOD & 1 - Petitioner(s)
Versus
VANTHALI NAGARPALIKA & 6 - Respondent(s)

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Appearance :
MR AD OZA for Petitioner(s) : 1 - 4.
MS SEJAL K MANDAVIA for Respondent(s) : 1 - 2.
MR DIPEN DESAI, ASST. GOVERNMENT PLEADER for Respondent(s) : 3 - 5.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 29/03/2007

ORAL JUDGMENT

1. By way of this petition under Article 226 of the Constitution of India, the petitioners, who are serving with the respondent No.1 – Vanthli Nagar Palika have prayed for an appropriate writ,

direction and/or order directing the respondents to pay the petitioners their salaries as per the 4th Pay Commission and to pay regular salary to the petitioner No.4.

2. It appears that at the relevant time, there was an arrears of 6 months salary, which was not paid to the petitioners. By interim order, the learned Single Judge directed the concerned respondent to pay the regular salary to the petitioners as well as the arrears. It also further appears that against the interlocutory order passed by the learned Single Judge dated 31.10.1997, L.P.A. No. 1483 of 1997 was preferred before the Division Bench and it was submitted on behalf of the Nagar Palika that the Nagar Palika is in financial constrain and it was unable to pay the salary to the employees. It was further submitted that the said authority has taken a loan of Rs.23 Lacs from the Government and now regular salary is being paid to them. It was also further submitted that for the period of 6 months, the Nagar Palika could

not pay the salary to the employees. While disposing of the aforesaid L.P.A., the Division Bench of this Court directed the Municipality to pay to its employees regular salary every month and over and above the payment of salary of 4 months, the Municipality was directed to pay the salary of 1 month for the past dues to clear arrears of 6 months. The interim order passed by the learned Single Judge dated 31.10.1997 was modified to the aforesaid extent. Thus, considering the order passed by the Division Bench of this Court dated 2.2.1998 passed in aforesaid L.P.A., the past dues must have been cleared and the petitioners must have been paid the regular salaries also. However, it is ordered that if the past dues of arrears are not cleared, in that case, the Municipality is directed to clear the past dues of arrears within a period of 1 months from the date of receipt of this order.

3. Another grievance, which is raised in the present Special Civil Application is with regard

to pay the petitioners their salaries as per the 4th Pay Commission. It was submitted that by approval / order dated 24.6.1997 the Regional Director of Municipalities, Rajkot has granted the approval to the resolution passed by the Nagar Palika to implement 4th Pay Commission on certain conditions. It is the submission on behalf of the petitioners that inspite of the approval dated 24.6.1997, the Nagar Palika has not implemented the same and the petitioners are not paid their salaries as per the 4th Pay Commission recommendation. Under the circumstances, if all the conditions mentioned in order of the Regional Director of the Municipalities, Rajkot dated 24.6.1997 are complied with, the respondent - Nagar Palika / Municipality is directed to pay salaries to the petitioners on the basis of the recommendations of the 4th Pay Commission. It is observed that only if all the conditions stipulated in the order passed by the Regional Director of the Municipalities, Rajkot dated 24.6.1997 are complied with the Nagar Palika / Municipality

shall pay the salaries to the petitioners on the basis of the recommendations of the 4th Pay Commission. If, ultimately, it is found that all the conditions are complied with and the petitioners are entitled to the salaries as per the recommendations of the 4th Pay Commission, in that case, the arrears, if any, to be paid within a period of 6 months from such a decision.

4. For the reasons stated above, the petition succeeds in part. Rule is made absolute to the aforesaid extent, however, there shall be no order as to costs.

[M.R.Shah, J.]

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